

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ALAN WILLIAM PLYMALE
2483 Falcon Drive
Paso Robles, CA 93446

Registered Nurse License No. 544635

Respondent

Case No. 2007-27

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on January 17, 2008.

IT IS SO ORDERED December 18, 2007.

LaTranene W Tate

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS,
Supervising Deputy Attorney General
3 TERRENCE M. MASON, State Bar No. 158935
Deputy Attorney General
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 ALAN WILLIAM PLYMALE
2488 Falcon Drive
13 Paso Robles, CA 93446

14 Registered Nurse License No. 544635

15 Respondent.

Case No. 2007-27

OAH No. L2007 020747

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H, R.N ("Complainant") is the Executive Officer of
21 the Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
23 by Terrence M. Mason, Deputy Attorney General.

24 2. Alan William Plymale ("Respondent") is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about June 30, 1998, the Board of Registered Nursing issued
27 Registered Nurse License No. 544635 to Alan William Plymale. The License will expire on
28 November 30, 2007, unless renewed.

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1 professional licensing agency is involved, and shall not be admissible in any other criminal or
2 civil proceeding.

3 CONTINGENCY

4 11. This stipulation shall be subject to approval by the Board of Registered
5 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
6 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
7 and settlement, without notice to or participation by Respondent. By signing the stipulation,
8 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind
9 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
10 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
11 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
12 between the parties, and the Board shall not be disqualified from further action by having
13 considered this matter.

14 OTHER MATTERS

15 12. The parties understand and agree that facsimile copies of this Stipulated
16 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
17 force and effect as the originals.

18 DISCIPLINARY ORDER

19 In consideration of the foregoing admissions and stipulations, the parties agree
20 that the Board may, without further notice or formal proceeding, issue and enter the following
21 Disciplinary Order:

22 IT IS HEREBY ORDERED that Registered Nurse License No. 544635 issued to
23 Respondent Alan William Plymale is revoked. However, the revocation is stayed and
24 Respondent is placed on probation for four (4) years on the following terms and conditions.

25 **Severability Clause.** Each condition of probation contained herein is a separate
26 and distinct condition. If any condition of this Order, or any application thereof, is declared
27 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
28 applications thereof, shall not be affected. Each condition of this Order shall separately be valid

1 and enforceable to the fullest extent permitted by law.

2 1. **Actual Suspension of License.** Respondent is suspended from the
3 practice of registered nursing for twelve (12) months (period of time not to exceed one year)
4 beginning the effective date of this Decision.

5 During the suspension period, all probation conditions are in full force and effect
6 except those relating to actual nursing practice. Further, the twelve (12) month period of
7 suspension will not be considered as "probationary time" should the Respondent apply for any
8 reduction of the period of probation.

9 2. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
10 A full and detailed account of any and all violations of law shall be reported by Respondent to
11 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
12 compliance with this condition, Respondent shall submit completed fingerprint forms and
13 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
14 as part of the licensure application process.

15 **Criminal Court Orders:** If Respondent is under criminal court orders, including
16 probation or parole, and the order is violated, this shall be deemed a violation of these probation
17 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

18 3. **Comply with the Board's Probation Program.** Respondent shall fully
19 comply with the conditions of the Probation Program established by the Board and cooperate
20 with representatives of the Board in its monitoring and investigation of the Respondent's
21 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
22 within no more than 15 days of any address change and shall at all times maintain an active,
23 current license status with the Board, including during any period of suspension.

24 Upon successful completion of probation, Respondent's license shall be fully
25 restored.

26 4. **Report in Person.** Respondent, during the period of probation, shall
27 appear in person at interviews/meetings as directed by the Board or its designated
28 representatives.

1 **5. Residency, Practice, or Licensure Outside of State.** Periods of
2 residency or practice as a registered nurse outside of California shall not apply toward a reduction
3 of this probation time period. Respondent's probation is tolled, if and when he resides outside of
4 California. Respondent must provide written notice to the Board within 15 days of any change of
5 residency or practice outside the state, and within 30 days prior to re-establishing residency or
6 returning to practice in this state.

7 Respondent shall provide a list of all states and territories where he has ever been
8 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
9 provide information regarding the status of each license and any changes in such license status
10 during the term of probation. Respondent shall inform the Board if he applies for or obtains a
11 new nursing license during the term of probation.

12 **6. Submit Written Reports.** Respondent, during the period of probation,
13 shall submit or cause to be submitted such written reports/declarations and verification of actions
14 under penalty of perjury, as required by the Board. These reports/declarations shall contain
15 statements relative to Respondent's compliance with all the conditions of the Board's Probation
16 Program. Respondent shall immediately execute all release of information forms as may be
17 required by the Board or its representatives.

18 Respondent shall provide a copy of this Decision to the nursing regulatory agency
19 in every state and territory in which he has a registered nurse license.

20 **7. Function as a Registered Nurse.** Respondent, during the period of
21 probation, shall engage in the practice of registered nursing in California for a minimum of 24
22 hours per week for 6 consecutive months or as determined by the Board.

23 For purposes of compliance with the section, "engage in the practice of registered
24 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
25 work in any non-direct patient care position that requires licensure as a registered nurse.

26 The Board may require that advanced practice nurses engage in advanced practice
27 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
28 Board.

1 If Respondent has not complied with this condition during the probationary term,
2 and Respondent has presented sufficient documentation of his good faith efforts to comply with
3 this condition, and if no other conditions have been violated, the Board, in its discretion, may
4 grant an extension of Respondent's probation period up to one year without further hearing in
5 order to comply with this condition. During the one year extension, all original conditions of
6 probation shall apply.

7 **8. Employment Approval and Reporting Requirements.** Respondent
8 shall obtain prior approval from the Board before commencing or continuing any employment,
9 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
10 performance evaluations and other employment related reports as a registered nurse upon request
11 of the Board.

12 Respondent shall provide a copy of this Decision to his employer and immediate
13 supervisors prior to commencement of any nursing or other health care related employment.

14 In addition to the above, Respondent shall notify the Board in writing within
15 seventy-two (72) hours after he obtains any nursing or other health care related employment.
16 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated
17 or separated, regardless of cause, from any nursing, or other health care related employment with
18 a full explanation of the circumstances surrounding the termination or separation.

19 **9. Supervision.** Respondent shall obtain prior approval from the Board
20 regarding Respondent's level of supervision and/or collaboration before commencing or
21 continuing any employment as a registered nurse, or education and training that includes patient
22 care.

23 Respondent shall practice only under the direct supervision of a registered nurse
24 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
25 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
26 are approved.

27 Respondent's level of supervision and/or collaboration may include, but is not
28 limited to the following:

1 (a) Maximum - The individual providing supervision and/or collaboration is
2 present in the patient care area or in any other work setting at all times.

3 (b) Moderate - The individual providing supervision and/or collaboration is in
4 the patient care unit or in any other work setting at least half the hours Respondent works.

5 (c) Minimum - The individual providing supervision and/or collaboration has
6 person-to-person communication with Respondent at least twice during each shift worked.

7 (d) Home Health Care - If Respondent is approved to work in the home health
8 care setting, the individual providing supervision and/or collaboration shall have person-to-
9 person communication with Respondent as required by the Board each work day. Respondent
10 shall maintain telephone or other telecommunication contact with the individual providing
11 supervision and/or collaboration as required by the Board during each work day. The individual
12 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
13 site visits to patients' homes visited by Respondent with or without Respondent present.

14 10. **Employment Limitations.** Respondent shall not work for a nurse's
15 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
16 traveling nurse, or for an in-house nursing pool.

17 Respondent shall not work for a licensed home health agency as a visiting nurse
18 unless the registered nursing supervision and other protections for home visits have been
19 approved by the Board. Respondent shall not work in any other registered nursing occupation
20 where home visits are required.

21 Respondent shall not work in any health care setting as a supervisor of registered
22 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
23 nurses and/or unlicensed assistive personnel on a case-by-case basis.

24 Respondent shall not work as a faculty member in an approved school of nursing
25 or as an instructor in a Board approved continuing education program.

26 Respondent shall work only on a regularly assigned, identified and predetermined
27 worksite(s) and shall not work in a float capacity.

28 If Respondent is working or intends to work in excess of 40 hours per week, the

1 Board may request documentation to determine whether there should be restrictions on the hours
2 of work.

3 **11. Complete a Nursing Course(s).** Respondent, at his own expense, shall
4 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
5 than six months prior to the end of his probationary term.

6 Respondent shall obtain prior approval from the Board before enrolling in the
7 course(s). Respondent shall submit to the Board the original transcripts or certificates of
8 completion for the above required course(s). The Board shall return the original documents to
9 Respondent after photocopying them for its records.

10 **12. Cost Recovery.** Respondent shall pay to the Board costs associated with
11 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
12 amount of seven-thousand dollars (\$7,000.00). Respondent shall be permitted to pay these costs
13 in a payment plan approved by the Board, with payments to be completed no later than three
14 months prior to the end of the probation term.

15 If Respondent has not complied with this condition during the probationary term,
16 and Respondent has presented sufficient documentation of his good faith efforts to comply with
17 this condition, and if no other conditions have been violated, the Board, in its discretion, may
18 grant an extension of Respondent's probation period up to one year without further hearing in
19 order to comply with this condition. During the one year extension, all original conditions of
20 probation will apply.

21 **13. Violation of Probation.** If Respondent violates the conditions of his
22 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
23 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
24 license.

25 If during the period of probation, an accusation or petition to revoke probation has
26 been filed against Respondent's license or the Attorney General's Office has been requested to
27 prepare an accusation or petition to revoke probation against Respondent's license, the
28 probationary period shall automatically be extended and shall not expire until the accusation or

1 petition has been acted upon by the Board.

2 14. **License Surrender.** During Respondent's term of probation, if he ceases
3 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
4 probation, Respondent may surrender his license to the Board. The Board reserves the right to
5 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
6 take any other action deemed appropriate and reasonable under the circumstances, without
7 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
8 will no longer be subject to the conditions of probation.

9 Surrender of Respondent's license shall be considered a disciplinary action and
10 shall become a part of Respondent's license history with the Board. A registered nurse whose
11 license has been surrendered may petition the Board for reinstatement no sooner than the
12 following minimum periods from the effective date of the disciplinary decision:

13 (1) Two years for reinstatement of a license that was surrendered for any
14 reason other than a mental or physical illness; or

15 (2) One year for a license surrendered for a mental or physical illness.

16 15. **Physical Examination.** Within 45 days of the effective date of this
17 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
18 physician assistant, who is approved by the Board before the assessment is performed, submit an
19 assessment of the Respondent's physical condition and capability to perform the duties of a
20 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
21 medically determined, a recommended treatment program will be instituted and followed by the
22 Respondent with the physician, nurse practitioner, or physician assistant providing written
23 reports to the Board on forms provided by the Board.

24 If Respondent is determined to be unable to practice safely as a registered nurse,
25 the licensed physician, nurse practitioner, or physician assistant making this determination shall
26 immediately notify the Board and Respondent by telephone, and the Board shall request that the
27 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
28 shall immediately cease practice and shall not resume practice until notified by the Board.

1 During this period of suspension, Respondent shall not engage in any practice for which a license
2 issued by the Board is required until the Board has notified Respondent that a medical
3 determination permits Respondent to resume practice. This period of suspension will not apply
4 to the reduction of this probationary time period.

5 If Respondent fails to have the above assessment submitted to the Board within
6 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
7 practice until notified by the Board. This period of suspension will not apply to the reduction of
8 this probationary time period. The Board may waive or postpone this suspension only if
9 significant, documented evidence of mitigation is provided. Such evidence must establish good
10 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
11 provided. Only one such waiver or extension may be permitted.

12 **16. Participate in Treatment/Rehabilitation Program for Chemical**
13 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary
14 period or shall have successfully completed prior to commencement of probation a Board-
15 approved treatment/rehabilitation program of at least six months duration. As required, reports
16 shall be submitted by the program on forms provided by the Board. If Respondent has not
17 completed a Board-approved treatment/rehabilitation program prior to commencement of
18 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
19 a program. If a program is not successfully completed within the first nine months of probation,
20 the Board shall consider Respondent in violation of probation.

21 Based on Board recommendation, each week Respondent shall be required to
22 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
23 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
24 by the Board. If a nurse support group is not available, an additional 12-step meeting or
25 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
26 such attendance to the Board during the entire period of probation. Respondent shall continue
27 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
28 mental health examiner and/or other ongoing recovery groups.

1 **17. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
2 shall completely abstain from the possession, injection or consumption by any route of all
3 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
4 the same are ordered by a health care professional legally authorized to do so as part of
5 documented medical treatment. Respondent shall have sent to the Board, in writing and within
6 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
7 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
8 medication will no longer be required, and the effect on the recovery plan, if appropriate.

9 Respondent shall identify for the Board a single physician, nurse practitioner or
10 physician assistant who shall be aware of Respondent's history of substance abuse and will
11 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
12 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
13 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
14 condition. If any substances considered addictive have been prescribed, the report shall identify a
15 program for the time limited use of any such substances.

16 The Board may require the single coordinating physician, nurse practitioner, or
17 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
18 addictive medicine.

19 **18. Submit to Tests and Samples.** Respondent, at his expense, shall
20 participate in a random, biological fluid testing or a drug screening program which the Board
21 approves. The length of time and frequency will be subject to approval by the Board.
22 Respondent is responsible for keeping the Board informed of Respondent's current telephone
23 number at all times. Respondent shall also ensure that messages may be left at the telephone
24 number when he is not available and ensure that reports are submitted directly by the testing
25 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
26 to the Board by the program and Respondent shall be considered in violation of probation.

27 In addition, Respondent, at any time during the period of probation, shall fully
28 cooperate with the Board or any of its representatives, and shall, when requested, submit to such

1 tests and samples as the Board or its representatives may require for the detection of alcohol,
2 narcotics, hypnotics, dangerous drugs, or other controlled substances.

3 If Respondent has a positive drug screen for any substance not legally authorized
4 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
5 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
6 from practice pending the final decision on the petition to revoke probation or the accusation.
7 This period of suspension will not apply to the reduction of this probationary time period.

8 If Respondent fails to participate in a random, biological fluid testing or drug
9 screening program within the specified time frame, Respondent shall immediately cease practice
10 and shall not resume practice until notified by the Board. After taking into account documented
11 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
12 Board may suspend Respondent from practice pending the final decision on the petition to
13 revoke probation or the accusation. This period of suspension will not apply to the reduction of
14 this probationary time period.

15 19. **Mental Health Examination.** Respondent shall, within 45 days of the
16 effective date of this Decision, have a mental health examination including psychological testing
17 as appropriate to determine his capability to perform the duties of a registered nurse. The
18 examination will be performed by a psychiatrist, psychologist or other licensed mental health
19 practitioner approved by the Board. The examining mental health practitioner will submit a
20 written report of that assessment and recommendations to the Board. All costs are the
21 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
22 result of the mental health examination will be instituted and followed by Respondent.

23 If Respondent is determined to be unable to practice safely as a registered nurse,
24 the licensed mental health care practitioner making this determination shall immediately notify
25 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
26 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
27 practice and may not resume practice until notified by the Board. During this period of
28 suspension, Respondent shall not engage in any practice for which a license issued by the Board

1 is required, until the Board has notified Respondent that a mental health determination permits
2 Respondent to resume practice. This period of suspension will not apply to the reduction of this
3 probationary time period.

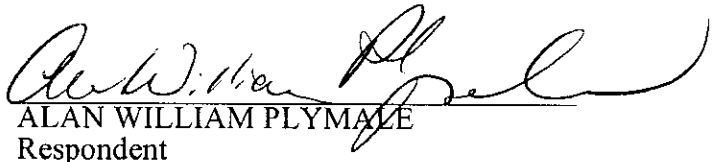
4 If Respondent fails to have the above assessment submitted to the Board within
5 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
6 practice until notified by the Board. This period of suspension will not apply to the reduction of
7 this probationary time period. The Board may waive or postpone this suspension only if
8 significant, documented evidence of mitigation is provided. Such evidence must establish good
9 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
10 provided. Only one such waiver or extension may be permitted.

11 20. **Therapy or Counseling Program.** Respondent, at his expense, shall
12 participate in an on-going counseling program until such time as the Board releases him from this
13 requirement and only upon the recommendation of the counselor. Written progress reports from
14 the counselor will be required at various intervals.

15 **ACCEPTANCE**

16 I have carefully read the Stipulated Settlement and Disciplinary Order. I
17 understand the stipulation and the effect it will have on my Registered Nurse License. I enter
18 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
19 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

20 DATED: 11-2-07.

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23 ALAN WILLIAM PLYMALE
24 Respondent

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27 **ENDORSEMENT**

28 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully

1 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
2 Affairs.

3 DATED: Nov 13, 2007

4 EDMUND G. BROWN JR., Attorney General
5 of the State of California

6
7 Terrence M. Mason
8 TERRENCE M. MASON
9 Deputy Attorney General

Attorneys for Complainant

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13 DOJ Matter ID: LA2005601394
14 60230884.wpd
(rev.10/07)

Exhibit A
Accusation No. 2007-27

1 BILL LOCKYER, Attorney General
of the State of California
2 TERRENCE M. MASON, State Bar No. 158935
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
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5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2007-27

12 ALAN WILLIAM PLYMALE
a.k.a., ALAN W. PLYMALE
2483 Falcon Drive
Paso Robles, CA 93446

A C C U S A T I O N

13 Registered Nurse License No. 544635

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
20 (Board), Department of Consumer Affairs.

21 2. On or about June 30, 1998, the Board issued Registered Nurse License No.
22 544635 to Alan William Plymale, also known as, Alan W. Plymale (Respondent). The
23 Registered Nurse License will expire on November 30, 2007, unless renewed.

24 JURISDICTION

25 3. This Accusation is brought before the Board, under the authority of the
26 following laws. All section references are to the Business and Professions Code unless otherwise
27 indicated.

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1 injurious to himself or herself, any other person, or the public or to the extent that such use
2 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
3 license.

4 "(c) Be convicted of a criminal offense involving the prescription, consumption,
5 or self-administration of any of the substances described in subdivisions (a) and (b) of this
6 section, or the possession of, or falsification of a record pertaining to, the substances described in
7 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
8 thereof."

9 8. Section 490 of the Code states:

10 "A board may suspend or revoke a license on the ground that the licensee has been
11 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
12 of the business or profession for which the license was issued. A conviction within the meaning
13 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
14 contendere. Any action which a board is permitted to take following the establishment of a
15 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
16 been affirmed on appeal, or when an order granting probation is made suspending the imposition
17 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
18 Penal Code."

19 9. California Code of Regulations, title 16, section 1444 states:

20 "A conviction or act shall be considered to be substantially related to the
21 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
22 present or potential unfitness of a registered nurse if to a substantial degree it evidences the
23 present or potential unfitness of a registered nurse to practice in a manner consistent with the
24 public health, safety, or welfare."

25 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
26 request the administrative law judge to direct a licensee found to have committed a violation or
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
28 and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crimes)

11. Respondent is subject to disciplinary action under section 2761, subdivision (f) and 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent has been convicted of multiple crimes substantially related to the qualifications, functions or duties of a registered nurse, as follows:

a. On or about October 20, 2005, Respondent was convicted by the court on his plea of nolo contendere for violating Vehicle Code section 23152, subdivision (a), a misdemeanor (driving under the influence of alcohol or drugs with prior conviction), in the Superior Court of California, County of San Luis Obispo, Case No. M375254, entitled *People v. Alan William Plymale*.

b. The circumstances underlying the conviction are that on or about July 3, 2005, Respondent willfully and unlawfully, while under the influence of an alcoholic beverage and a drug, and under their combined influence, drove a motor vehicle with his minor child present.

c. On or about May 18, 2005, Respondent was convicted by the court on a plea of nolo contendere for violating Vehicle Code section 23103, subdivision (a), a misdemeanor (reckless driving on the highway), in the Superior Court of California, County of San Luis Obispo, Case No. M367041, entitled *People v. Alan William Plymale*.

d. The circumstances underlying the conviction are that on or about December 14, 2004, Respondent willfully and unlawfully, while under the influence of an alcoholic beverage and a drug, and under their combined influence, drove a motor vehicle. Respondent was involved in a one vehicle traffic collision resulting in his vehicle rolling over. Respondent admitted to the officer who responded to the accident that he had consumed Peppermint Schnapps and the medications Antabuse (disulfiram, an anti-alcoholism perscription medicine - dangerous drug), Ativan (a Schedule IV controlled substance), and Zoloft (sertraline hydrochloride, an antidepressant prescription medicine - dangerous drug) that morning.

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1 e. On or about April 21, 2004, Respondent was convicted by the court on his
2 plea of nolo contendere for violating Vehicle Code section 23152, subdivision (b), a
3 misdemeanor (driving while having a 0.08% or higher blood alcohol), in the Superior Court of
4 California, County of San Luis Obispo, Paso Robles Branch, Case No. M349752, entitled *People*
5 *v. Alan William Plymale*.

6 f. The circumstances underlying the conviction are that on or about
7 November 2, 2003, Respondent willfully and unlawfully, while having 0.08 percent or more, by
8 weight, of alcohol in his blood, drove a motor vehicle. Respondent was involved in a one vehicle
9 traffic collision resulting in his vehicle rolling over. Respondent was taken to a hospital for
10 treatment for possible injuries where he became uncooperative and attempted to escape the
11 hospital following his arrest.

12 SECOND CAUSE FOR DISCIPLINE

13 (Dangerous Use of Alcohol)

14 12. Respondent's license is subject to disciplinary action under section 2761,
15 subdivision (a) of the Code, on the grounds of unprofessional conduct, as defined in section
16 2762, subdivision (b) of the Code, in that on or about November 2, 2003, December 14, 2004,
17 and July 3, 2005, Respondent operated a vehicle while under the influence of alcoholic beverages
18 and/or drugs, to an extent or in a manner dangerous or injurious to himself, and the public, as set
19 forth in paragraph 11 above.

20 THIRD CAUSE FOR DISCIPLINE

21 (Conviction Involving the Consumption of Alcohol)

22 13. Respondent's license is subject to disciplinary action under section 2761,
23 subdivision (a) of the Code, on the grounds of unprofessional conduct, as defined in section
24 2762, subdivision (c) of the Code, in that on or about April 21, 2004, May 18, 2005, and October
25 20, 2005, Respondent was convicted of a crimes involving driving a motor vehicle while under
26 the influence of alcohol and/or drugs, as set forth above in paragraph 11.

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